

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA**

**IN RE:**

**Pa Ying Xiong**

**DEBTORS**

**CASE NO. 22-31456**

**CHAPTER 13**

**NOTICE OF HEARING AND MOTION FOR OBJECTION  
TO CONFIRMATION OF CHAPTER 13 PLAN**

To: The Debtors and other entities specified in Local Rule 9013-3(a).

1. Nationstar Mortgage LLC (“Movant”), by its undersigned attorney, moves the Court for relief requested below and gives Notice of Hearing within.
2. This objection is filed pursuant to 11 U.S.C. §§ 1322 and 1325, Federal Rules of Bankruptcy Procedure Rules 3015(f) and 9014, and Local Rules 3015-3, 3020-1 and 3020-3. Movant requests that this Court enter an order denying confirmation of the Debtors’ Chapter 13 Plan.
3. The Court will hold a Hearing on this Motion at 10:30 AM, on October 27, 2022, in Courtroom No. 2A, at Warren E. Burger Federal Building and United States Courthouse, 2nd Floor, 316 N. Robert Street, St Paul, Minnesota 55101, or as soon thereafter as counsel can be heard.
4. Any response to this motion must be filed and delivered no later than October 26, 2022 at 10:30 AM on all parties required to be served pursuant to Local Rule 9013-3, United States Bankruptcy Court, District of Minnesota, which is 24 hours before the time set for the hearing, or filed and served by mail no later than October 24, 2022, which is three days before the time set for the hearing. UNLESS A REPLY OPPOSING THE OBJECTION IS TIMELY FILED, THE COURT MAY SUSTAIN THE OBJECTION WITHOUT A HEARING.
5. This Court has jurisdiction over this Motion proceeding under 28 U.S.C. §§ 157(a) and 1334(a), Federal Rules of Bankruptcy Procedure Rule 5005 and Local Rule 1070-1. This proceeding is a core proceeding. The Petition commencing this Chapter 13 case was filed on September 8, 2022. This case is now pending in this Court.

6. On August 24, 2018, Pheng Lee and Pa Xiong (hereinafter "Debtor(s)"), made, executed and delivered to Mortgage Electronic Registration Systems, Inc. a Note (hereinafter referred to as the "Note"), in the original principal amount of \$230,743.00 bearing interest from the date thereof at the rate of 3.125% per annum until paid. A redacted copy of the Note is attached hereto.
7. On August 24, 2018, to secure the payment of the Note, Pheng Lee and Pa Xiong, both unmarried, executed and delivered to Mortgage Electronic Registration Systems, Inc. a Mortgage (hereinafter the "Mortgage"), mortgaging and conveying certain real estate in Ramsey County, Minnesota, legally described as follows:

The South 50 feet of Lot 1, Block 6, Hudson Road Gardens, lying East of the West 150.1 feet thereof

which property has an address of: 405 Hazel St N, Saint Paul, MN 55119. The Mortgage was filed for record in the office of the Recorder, County of Ramsey, on September 5, 2018, as Document Number T02622899. A redacted copy of the Mortgage is attached hereto

8. The Mortgage was subsequently assigned to Movant via the Assignment of Mortgage. A redacted copy of the Assignment of Mortgage is attached hereto.
9. The Debtors filed a Chapter 13 Plan on September 8, 2022. The Debtors owe estimated pre-petition arrearages to Movant in the amount of \$16,501.99. The Plan grossly underestimates and only provides for pre-petition arrearages of \$13,000.00; therefore the Movant will not receive the total amount of pre-petition arrearages that it is owed.
10. In its current form, the Plan purports to modify Movant's rights under the Mortgage, contrary to the provisions of 11 U.S.C. § 1322(b)(2). As such, the Movant objects to the Plan in its current form.
11. The Plan is also objectionable under the provision of 11 U.S.C. § 1325 (a)(6). Based on the Debtor's Summary of Assets and Liabilities and Certain Statistical Information Statement and the Debtor's Schedule J Expenses the Plan is not feasible for the Debtor to be able to make all payments under the plan.
12. **This is an attempt to collect a debt and any information obtained will be used for that purpose.** This notice is required by the provisions of the Fair Debt Collection Practices Act and does not imply that we are attempting to collect money from anyone who has discharged the debt under the Bankruptcy Laws of the United States.

**WHEREFORE**, Movant prays:

1. For an Order denying confirmation of the Debtors' proposed Chapter 13 plan and requiring the Debtors to modify said plan in a timely manner; or, in the alternative, dismissing this case.
2. For such other and further relief as the Court finds just and proper.

Dated 10/6/2022

LOGS Legal Group LLP

Signed: /s/ Joseph M. Rossman

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## MEMORANDUM OF LAW

Nationstar Mortgage LLC ("Movant"), submits this memorandum of law in support of its motion for objection to confirmation of Chapter 13 Plan in the above-entitled matter.

### PROCEDURAL HISTORY

This Chapter 13 case was filed by the Debtors on September 8, 2022. The Debtors listed the property in schedule A with a value of \$280,400.00. The Debtors claimed the property exempt pursuant to 11 U.S.C. § 522 (d)(1) or 11 U.S.C. § 522 (d)(5). The Debtors filed a Chapter 13 Plan on September 8, 2022, listing Movant in Part 6 under "Home Mortgages in Default".

### FACTS

The Debtors, Pheng Lee and Pa Xiong, executed a Note and Mortgage in favor of Mortgage Electronic Registration Systems, Inc. on or about August 24, 2018, in the amount of \$230,743.00. Said Note and Mortgage were subsequently assigned to, transferred to, or acquired by Nationstar Mortgage LLC d/b/a Mr. Cooper. As of September 8, 2022, the total amount of estimated pre-petition arrearages is \$16,501.99.

*Id.*

### ARGUMENT

The Debtors' Plan cannot be confirmed as proposed. Section 1322(b)(2) of the Bankruptcy Code provides as follows:

(b) Subject to subsection (a) and (c) of this Section, the plan may ---...

(2) modify the rights of holders of secured claims, other than a claim secured only by a security interest in real property that is the debtor's principal residence...

(5) notwithstanding paragraph (2) of this subsection, provide for the curing of any default within a reasonable time and maintenance of payments while the case is pending on any unsecured claim or secured claim on which the last payment is due after the date on which the final payment under the plan is due; ...

11 U.S.C. § 1322(b). Further, under Section 1325(a),

(a) except as provided in subsection (b), the court shall confirm a plan if-

- (1) The plan complies with the provisions of this chapter and with the other applicable provisions of this title; ....
- (3) The plan has been proposed in good faith and not by any means forbidden by law; ...
- (6) The debtor will be able to make all payments under the plan and to comply with the plan...

11 U.S.C. § 1325(a).

Movant is a secured creditor of the Debtors whose claim is secured only by the Debtors' principal residence at 405 Hazel St N, Saint Paul, MN 55119. The Debtors' Plan lists Movant's claim in Debtors' Chapter 13 Plan at ¶ 6. The Plan provides for \$13,000.00 for the pre-petition arrearages that are owed to the Movant, and the Debtors do not propose to surrender the secured property to the Movant. *Id.* As filed, the Plan grossly underestimates the arrears and purports to modify Movant's right to collect all amounts due and owing under the Mortgage contract, which is contrary to the provisions of 11 U.S.C. § 1322(b)(2). As such, the Movant objects to the Plan in its current form.

CONCLUSION

Movant is entitled to an order denying confirmation of the Debtors' proposed Chapter 13 Plan.

Dated: 10/6/2022

Respectfully submitted,  
**LOGS LEGAL GROUP LLP**

Signed: /s/ Joseph M. Rossman  
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**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA**

**IN RE:**

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**DEBTORS**

**CASE NO. 22-31456**

**CHAPTER 13**

**ORDER DENYING CONFIRMATION OF PLAN**

The above-entitled matter came for hearing on October 27, 2022, before Judge William J. Fisher, United States Bankruptcy Judge for the District of Minnesota, upon the Motion of Nationstar Mortgage LLC, for its objection to the confirmation of Chapter 13 plan. Appearances were as noted in the record.

Based on all the files, records and arguments of counsel;

**IT IS ORDERED,**

Confirmation of the Debtors' Chapter 13 Plan is denied.

Dated: \_\_\_\_\_

**BY THE COURT:**

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William J. Fisher  
United States Bankruptcy Judge

Case No. 22-31456

**CERTIFICATE OF SERVICE**

The undersigned declares under penalty of perjury, that on October 6, 2022, I mailed U.S. Mail and CM/ECF emailed copies of the Notice of Hearing and Motion for Objection to Confirmation of Chapter 13 Plan, Memorandum of Law and Proposed Order for Denying Confirmation upon the following interested parties at their last known address:

Served Via U.S. Mail

Pa Ying Xiong  
405 Hazel St N  
Saint Paul, MN 55119

Additional Copy(s) served electronically through the Court's ECF System or by first class U.S. mail postage addressed to:

Nicole L Anderson  
1650 11th Ave SW  
Suite 203  
Forest Lake, MN 55025

Gregory A Burrell  
100 South Fifth Street  
Suite 480  
Minneapolis, MN 55402

US Trustee  
1015 US Courthouse  
300 S 4<sup>th</sup> Street  
Minneapolis, MN 55415

/s/Valerie Feliz

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**MOVANT'S CORPORATE DISCLOSURE STATEMENT**

Pursuant to Federal Rule of Civil Procedure 7.1, Movant, Nationstar Mortgage LLC d/b/a Mr. Cooper, by its undersigned counsel, states as follows:

1. Nationstar Mortgage LLC ("Nationstar") is a Delaware Limited Liability Company.
2. Nationstar is an indirect, wholly owned subsidiary of a publicly-traded company, Mr. Cooper Group Inc. (formerly known as WMIH Corp.) ("Mr. Cooper"), a Delaware corporation.
3. Nationstar is directly owned by two entities: (1) Nationstar Sub1 LLC ("Sub1") (99%) and (2) Nationstar Sub2 LLC ("Sub2") (1%). Both Sub1 and Sub2 are Delaware limited liability companies. Sub1 and Sub2 are both 100% owned by Nationstar Mortgage Holdings Inc. ("NSM Holdings"). NSM Holdings is a wholly owned subsidiary of Mr. Cooper
4. More than 10% of the stock of Mr. Cooper is owned by Blackrock, Inc., a Delaware corporation, and certain of its affiliates.

Dated: 10/6/2022

LOGS Legal Group LLP

Signed: /s/ Joseph M. Rossman  
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